

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

DENNIS E. JONES-EL,

Petitioner,

v.

Case No. 07-C-0680

WILLIAM POLLARD,

Respondent.

ORDER RE: PETITIONER'S VARIOUS MOTIONS

On July 25, 2007, the petitioner, Dennis E. Jones-El ("Jones-El"), filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. On August 31, 2007, United States District Judge William C. Griesbach issued an order, pursuant to Rule 4 of the Rules Governing § 2254 Cases, in which he allowed Jones-El to proceed on certain claims set forth in his petition and dismissing certain other claims. On September 11, 2007, the respondent filed a consent to proceed before a magistrate judge. On September 12, 2007, Jones-El filed a consent to proceed before a magistrate judge. On that same date, Jones-El filed a motion for reconsideration of that aspect of Judge Griesbach's August 31, 2007 order in which he dismissed certain claims. On September 13, 2007, due to the parties' consent to magistrate judge jurisdiction, this case was reassigned to this court. On October 26, 2007, Jones-El filed a motion asking this court to decide his motion for reconsideration of September 12, 2007.

I recognize that Jones-El is disappointed with Judge Griesbach's order of August 31, 2007. However, after giving due consideration to Jones-El's arguments and after reviewing Judge

Griesbach's August 31, 2007 order, I am satisfied that there is no reason to reconsider the court's order of August 31, 2007. Thus, the petitioner's motion for reconsideration will be denied. Furthermore, the petitioner's motion for a decision on his motion for reconsideration will be denied as moot.

On December 11, 2007, Jones-El filed: (1) a motion for an extension of time to file his brief in support of his petition; (2) a motion for a more complete record from the respondent; and (3) a motion for an evidentiary hearing. Finally, in a letter addressed to Judge Griesbach, dated December 3, 2007 (and which was docketed on December 11, 2007), Jones-El requests that the referral to a magistrate be vacated and that the case be returned to the district judge.

In his answer to the petition (which answer was filed on October 25, 2007), the respondent asserts that the complete court proceedings are available in this case. The petitioner's "motion for a more complete record" of the state court proceedings will therefore be granted. The respondent will be ordered to file with this court (and provide to the petitioner) a complete copy of the record of the state court proceedings in this case no later than forty-five (45) days from the date of this order. The petitioner will be ordered to file his brief in support of his petition no later than 45 days after the filing of the record of the state court proceedings. Given the foregoing, the petitioner's motion for an extension of time to file his brief will be denied as moot.

Furthermore, I am not persuaded at this time that an evidentiary hearing is necessary. Thus, the petitioner's motion for an evidentiary hearing will be denied without prejudice.

Lastly, Jones-El's request that the referral to a magistrate judge be vacated will be denied. Once a civil case is referred to a magistrate judge under 28 U.S.C. § 636, this reference can only be vacated by the court "for good cause shown on its own motion, or under extraordinary circumstances

shown by any party.” 28 U.S.C. § 636(c)(4). The petitioner has presented nothing in his request which would demonstrate “extraordinary circumstances” warranting vacating the reference to a magistrate judge. Such being the case, this court will retain jurisdiction over this case.

NOW THEREFORE IT IS ORDERED that the petitioner’s motion for reconsideration be and hereby is **DENIED**;

IT IS FURTHER ORDERED that the petitioner’s motion for a more complete record of the state court proceedings be and hereby is **GRANTED**;

IT IS FURTHER ORDERED that no later than forty-five (45) days from the date of this order the respondent file with this court (and provide to the petitioner) a complete copy of the record of the state court proceedings in this case;

IT IS FURTHER ORDERED that the petitioner file his brief in support of his petition no later than forty-five (45) days after the filing of the complete copy of the state court proceedings;

IT IS FURTHER ORDERED that the respondent file his brief in response to the petitioner’s brief no later than forth-five (45) days after the petitioner’s brief is filed;

IT IS FURTHER ORDERED that the petitioner file his reply brief no later than thirty (30) days after the respondent’s brief is filed;

IT IS FURTHER ORDERED that the petitioner’s motion for an evidentiary hearing be and hereby is **DENIED WITHOUT PREJUDICE**;

IT IS FURTHER ORDERED that the petitioner’s request that the referral to a magistrate be vacated be and hereby is **DENIED**;

IT IS FURTHER ORDERED that the petitioner’s motion for an extension of time to file his brief in support of his petition be and hereby is **DENIED AS MOOT**;

IT IS FURTHER ORDERED that the petitioner's motion for a decision on his motion for reconsideration be and hereby is **DENIED AS MOOT**.

SO ORDERED this 12th day of December 2007, at Milwaukee, Wisconsin.

/s/ William E. Callahan, Jr.
WILLIAM E. CALLAHAN, JR.
United States Magistrate Judge